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10/762,169	01/21/2004	Loretta E. Allen	84196B/F-P	3766

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EXAMINER

NGUYEN, KIMBERLY D

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/762,169
Filing Date: January 21, 2004
Appellant(s): ALLEN ET AL.

Thomas J. Strouse
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 30, 2006 appealing from the Office action mailed May 31, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,636,332

Soscia

10-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Soscia (US 6,636,332).

Soscia teaches a method of providing a machine-readable indicia (40) on a media having a protective overlayer comprising the steps of (see figs. 2 and 4)

providing a first machine-readable indicia (image 20, which is captured by digital camera 119 (column 4, lines 47-49), which is machine-readable; image 20 of a subject 30, wherein the subject 30 may be a human subject, an inanimate object or alphanumeric lettering (column 3, lines 23-30)) in an image layer on the media (50; the image 20, which is printed on a first recording medium 50 (column 4, lines 20-22)); and

providing a second machine-readable indicia (40, which is preferably in the form of a two-dimensional encoded variable... (column 3, lines 48-52; column 5, lines 53-57; column 5, lines 48-51)) in a protective overlayer (100) that is identical in content to (the indicia 40, which is digitally representing image 20 (column 3, lines 34-47)), and in register with the first machine-readable indicia in the image layer (the indicia 40, which

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is imprinted onto any desired portion of the original image 20 or may be appended to image 20 (column 3, lines 34-47); indicia 40 is preferably overlaid on image 20 (col. 4, lines 20+)) (column 3, line 15 through column 5, line 66).

(10) Response to Argument

3. In response to Appellants' argument (a) on page 3:

"Soscia does not disclose, expressly or inherently, at least providing a second machine-readable indicia in a protective overlayer that is identical in content to, and in register with said first machine-readable indicia in an image layer as required by independent claims 1 and 2..."

The examiner respectfully submits that Soscia discloses the indicia 40 digitally representing image 20, which is printed on a first recording medium 50 (column 4 lines 20+); wherein indicia 40 is printed, overlaid on, or appended, etc. to image 20 (column 3 lines 34-51, column 4 lines 20-22). Soscia teaches indicia 40 is preferably in the form of two-dimensional encoded variable (column 3 lines 48+). Soscia also teaches and shows in figure 4 the indicia 40 is within the layer 100 overlaying the image 20 (column 4 lines 20+ and column 3 lines 34-51). Accordingly, Soscia anticipates Appellants' "providing a second machine-readable indicia in a protective overlayer that is identical in content to, and in register with said first machine-readable indicia in an image layer."

4. In response to Appellants' argument (b) on page 4:

"Soscia does not disclose, expressly, or inherently, at least providing machine-readable indicia in a protective overlayer as required by independent claims 1 and 2..."

The examiner submits that Soscia teaches indicia 40 is preferably in the form of two-dimensional encoded variable (column 3 lines 48+), which is machine-readable. Soscia also teaches and shows in figure 4 the indicia 40 is within the layer 100 overlaying the image 20 (column 4 lines 20+ and column 3 lines 34-51). Therefore, Soscia meets the claimed limitation "at least providing machine-readable indicia in a protective overlayer."

5. In response to Appellants' argument (c) on page 5:

"Soscia does not disclose, expressly or inherently, at least providing a first machine-readable indicia in an image layer on a media as required by independent claims 1 and 2..."

The examiner submits that Soscia teaches the image 20, which is captured by digital camera 119 (column 4, lines 47+). Accordingly, image 20 is machine-readable indicia as set forth in the claim.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

KDN

Conferees?

David Blum

Michael Lee

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Kimberly Nguyen

K.D.N.